

RECEIVED AND FILED  
WITH THE  
N.J. BOARD OF DENTISTRY  
ON 11-4-99

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF DENTISTRY

In the Matter of	:	
	:	Administrative Action
EDMUND M. CARUSO, D.M.D.	:	
LICENSE NO. DI 15698	:	
	:	
Licensed to Practice	:	FINAL ORDER
Dentistry in the	:	OF DISCIPLINE
State of New Jersey	:	
	:	

CERTIFIED TRUE COPY

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of information that Edmund M. Caruso, D.M.D. ("respondent") had failed to comply with the terms of a January 1998 Consent Order and had failed to cooperate with Board requests for information. Based on review of relevant information, the Board, on June 16, 1999, entered a Provisional Order of Discipline against respondent. That order provisionally imposed a thirty day suspension of respondent's license to practice dentistry, and an indefinite continuation of the suspension until respondent satisfied the restitution owed, paid costs of investigation, provided proof of completion of the 54 hours of preapproved continuing education, and provided a copy of a patient record that the Board previously subpoenaed. Pursuant to the terms of the Order, respondent was invited to request modification or dismissal through submission of a written response.

Respondent's counsel, Steven I. Kern, Esq., provided a letter dated July 13, 1999, seeking modification of the Provisional Order.

In support of modification, respondent's counsel asserted that respondent has a partial disability resulting from an automobile accident that had left him without financial resources to satisfy the restitution and remedial continuing education terms of the January 1997 consent order. In support of his contention, copies of physician statements attesting to disability were included. Counsel further asserted that respondent was now prepared to satisfy the restitution owed to his patient and that a check for the amount had been deposited into counsel's attorney trust account. He further asserted that respondent was prepared to make every effort to complete the continuing education requirements. As the summer months held few opportunities for completion of the required hours, respondent sought an extension for completion of the requirements until October 31, 1999.

On July 21, 1999, the Board reviewed the record in this matter and considered the arguments of and documents submitted by respondent's counsel. It made the following findings of fact and conclusions of law upon which this order is based. The terms of this order were relayed orally to respondent's counsel on August 4, 1999.

#### FINDINGS OF FACT

1. Edmund Caruso, D.M.D.(respondent), has been a licensee of the Board at all times relevant to this matter.

#### COMPLIANCE WITH CONSENT ORDER

2. On January 26, 1998, respondent entered into a Consent Order with the Board to resolve a matter involving a

patient complaint. The Board determined that respondent's care of the complainant did not conform to standard dental practice in the State of New Jersey.

3. Pursuant to the terms of the January 1998 Consent Order, respondent was required to pay civil penalties totaling \$3,500.00, costs in the amount of \$133.00, and successfully complete forty (40) hours of continuing education in implant dentistry and fourteen (14) hours in basic post and core. Those continuing education courses were to be pre-approved by the Board. The Order further required restitution to patient D.P. in the amount of \$4,657.00. Respondent was granted permission to make monthly payments toward the amounts due pursuant to the terms of the Order.

4. As of the date of the entry of the Provisional Order, respondent had not sought pre-approval for any continuing education courses which were to be completed pursuant to the terms of the Consent Order.

5. As of the date of the entry of the Provisional Order, respondent had paid \$2,000.00 (4 payments of \$500 each) of the \$4,657.00 in restitution owed to patient D.P. pursuant to the terms of the Consent Order. He had not made restitution payments since August 1998.

6. As of the date of the entry of the Provisional Order, respondent had paid \$2,500.00 of the \$3,500.00 penalty owed to the State of New Jersey pursuant to the terms of the Consent Order.

7. As of the date of the entry of the Provisional Order, respondent had not paid any sum towards costs in the amount of \$133.00 owed to the State, of New Jersey pursuant to the terms of the Consent Order.

FAILURE TO COOPERATE WITH BOARD REQUEST

8. On December 13, 1997, the Board Office sent a letter to respondent requesting copies of patient records, x-rays, billing and records for patient D. M. H.

9. On January 23, 1998, the Board office sent to respondent through counsel, John Paul Dizzia, Esq., a second request for the information. That letter, sent certified mail, return receipt requested, was received on January 28, 1998.

10. On April 23, 1998, respondent, having not produced the previously requested record, was served with a subpoena demanding patient records, including patient D.M.H.

11. On September 14, 1998, the Board, in a letter to respondent's counsel, John Paul Dizzia, Esq., requested respondent provide a line by line transcription of D.M.H.'s patient record and a written narrative. That letter, sent certified mail, return receipt requested, was received on September 16, 1998.

12. On October 15, 1998, the Board, in a letter to respondent's counsel, John Paul Dizzia, Esq., requested respondent provide a line by line transcription of D.M.H.'s patient record and a written narrative. That letter, sent certified mail, return receipt requested, was received on October 20, 1998.

13. As of the date of the entry of the Provisional Order, no response had been received by the Board to the requests contained in the letters of September 14, 1998 and October 15, 1998.

14. Since the entry of the Provisional Order, counsel for respondent has advised that he has deposited in his trust account a check in the amount of \$3,790.00, which sum reflects all monies due and owing pursuant to the terms of the January 26, 1998 Consent Order. He has represented that he will forward checks to the Board office once the check clears.

15. Since the entry of the Provisional Order, respondent has provided a line by line transcription of D.M.H.'S patient record but has failed to provide a written narrative of the treatment rendered to that patient.

#### CONCLUSIONS OF LAW

Respondent's actions as set forth here constitute violations of N.J.A.C. 13:45C-1.4 (failure to comply with a Board order) and N.J.A.C. 13:45C-1.3 (failure to provide information as requested in a timely manner). These violations provide grounds for discipline pursuant to N.J.S.A. 45:1-21(e) and N.J.S.A. 45:1-21(h).

There is no doubt that the Board finally got respondent's attention when it issued the Provisional Order of Discipline. Until that time, respondent had consistently failed to comply with the terms of the prior consent order and had ignored repeated requests for information. That he may have been partially disabled is not relevant to his ability to respond, or to direct someone on

his behalf to respond, to the Board's requests. Respondent made no attempt to seek a modification of the Board's order in light of his physical and/or financial condition. Nonetheless, the Board is aware that respondent now is prepared to satisfy his obligations pursuant to the January 1998 consent order. The Board believes that providing respondent some time to complete the required courses is appropriate and will extend until October 31, 1999, the time in which he shall complete the remedial continuing education courses set forth in the January 1998 Consent Order. The thirty day suspension and \$2500.00 penalty provisionally imposed by the Board for respondent's failure to comply with the Board's order and for failing to respond to requests for information, are hereby made final. Given respondent's asserted financial condition, however, the Board will rescind the \$2,500 penalty if the 54 credits are completed by October 31, 1999.

IT IS, THEREFORE, on this 3<sup>rd</sup> day of ~~October~~ November, 1999, annc

ORDERED that:

1. The license of EDMUND CARUSO, D.M.D., to practice dentistry in the State of New Jersey is hereby suspended for a period of thirty days, effective November 15, 1999.

2 Notwithstanding the finite term of the suspension in paragraph 1 above, respondent's license to practice dentistry in this State shall remain suspended until such time as he complies with the following:

(a.) Respondent shall submit a certified check or money order in the amount of \$ 2,657.00 payable to patient D.P., in

satisfaction of the order of restitution set forth in the January 26, 1998 Consent Order. Payment shall be submitted to Agnes M. Clarke, Executive Director, New Jersey State Board of Dentistry, P.O. Box 45005, Newark, New Jersey 07101.

(b.) Respondent shall submit a certified check or money order in the amount of \$ 1,133.00 payable to the State of New Jersey, in satisfaction of the penalties and costs set forth in the January 26, 1998 Consent Order. Payment shall be submitted to Agnes M. Clarke, Executive Director, New Jersey State Board of Dentistry, P.O. Box 45005, Newark, New Jersey 07101.

(c.) Respondent shall, not later than October 31, 1999, submit proof of completion of 54 hours of continuing education (40 hours in implant dentistry and 14 hours in basic post and core), which courses must be pre-approved by the Board as required by the Board's order of January 26, 1998, as well as proof of 40 hours of continuing education credits required for the 1999-2001 renewal period.

(d.) Respondent shall, not later than November 15, 1999, comply with the request of the Board for a written narrative of treatment rendered to patient D.M.H. by forwarding the narrative to Agnes M. Clarke, Executive Director, State Board of Dentistry, P.O. Box 45005, Newark, New Jersey 07101.

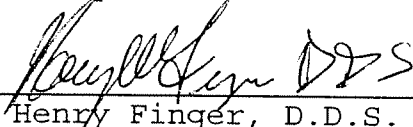
3. Respondent shall pay a civil penalty of \$2,500 for violation of N.J.S.A. 45:21(e) pursuant to N.J.S.A. ~~45~~:1-22(b) by certified check or money order payable to the State of New Jersey and forwarded to Agnes M. Clarke, Executive Director, State Board

of Dentistry within 60 days of the entry of the final order of discipline. If, by October 31, 1999, respondent has provided proof of completion of 54 hours of continuing education as required by the January 1998 Consent Order, this penalty shall be rescinded.

4. Respondent shall derive no financial remuneration directly or indirectly related to patient fees paid for dental services rendered by other licensees for patients of respondent's practice. The attached "Directives Regarding Future Activities of Board Licensee Who Has Been Suspended/Revoked and Use of the Professional Premises" is hereby incorporated into this Order.

New Jersey Board of Dentistry

By: \_\_\_\_\_

  
Henry Finger, D.D.S.  
President



DIRECTIVE REGARDING FUTURE ACTIVITIES  
OF BOARD LICENSEE WHO HAS BEEN SUSPENDED/  
REVOKED AND USE OF THE PROFESSIONAL PREMISES

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of dentistry in any form either as principal or employee of another licensee.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new licensee is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing patient record to the new licensee, or to the patient if no new licensee is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices dentistry.
- 5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice dentistry. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing.
- 6) Cease to use any stationery whereon such person's name appears as a dentist in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.